IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

WP(C).No. 24263 of 2004(L)

PETITIONER:

P.NAZAR, S/O. SAIDALI,
PANANGAVIL HOUSE, PAINKANNORE P.O.,
VIA KUTTIPURAM, MALAPPURAM DISTRICT.

BY ADV. SRI.K.P.MUJEEB

RESPONDENTS:

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1. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD,
MALAPPURAM.

2. THE DEPUTY TAHSILDAR, REVENUE RECOVERY,
TIRUR.

R1 BY ADV. SRI.P.RAMAKRISHNAN, SC,KMTWF BOARD
R2 BY G.P. SMT. SMITHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF AGREEMENT DATED 30.12.2002

EXT.P2 TRUE COPY OF THE DEMAND NOTICE RECEIVED FROM THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

W.P.C. NO. 24263 OF 2004

Dated this the 16th day of November, 2007

JUDGMENT

Petitioner is challenging recovery proceedings for recovery of arrears of Motor Transport Workers Welfare Fund contribution for the years 2001-02 and 2002-03. Even though petitioner's case is that petitioner was not given notice and was not heard, respondents' counsel submitted that respondents have given in the statement filed particulars of notices and adjudication order sent and received by the petitioner. Petitioner did not raise any objection against notice or file appeal against adjudication, but directly approached this Court challenging recovery proceedings. It is seen that demand raised is for very same employees for the two years. According to the petitioner for part of the year vehicle was operated by another person who is also not made a party in this W.P. and for the remaining period petitioner operated the vehicle. Since employees are common, it shows that petitioner purchased the vehicle with operating staff. Therefore I do not find any ground to interfere with recovery proceedings. However, since

petitioner has paid Rs. 15,000/- in terms of the interim order dated 16.8.2004, petitioner is granted time to clear the balance arrears as follows. Fifty per cent will be paid on or before 30.3.2008 and balance 50% on or before 15.5.2008. Recovery proceedings will be kept in abeyance for payment as above, and if petitioner commits default in payment of any instalment, the instalment facility will stand automatically cancelled, and respondents will be free to proceed for recovery of entire arrears due. If payments are made as above, no collection charges will be recovered from the petitioner.

(C.N. RAMACHANDRAN NAIR)
Judge